

CONTRACT FOR LEGAL SERVICES

St. Louis County (the "County") and Motley Rice LLC (the "Firm") in consideration of the terms and conditions set forth herein, enter into this Contract for Legal Services (this "Contract").

1. Scope of engagement: The County requests, and the Firm wishes to perform, the following activities: to investigate, litigate, or negotiate for settlement actionable claims that may be pursued by the County against individuals and entities related to the marketing, prescribing, distribution, or sale of opioids. The remedies sought may include monetary compensation, injunction, declaratory judgment, damages, restitution, payment of penalties as authorized by law, or other remedies.
2. Terms of engagement: The parties understand that under no circumstances shall the County be liable for any costs, expenses, or attorneys' fees incurred by the Firm in connection with this engagement. All costs, expenses, and attorneys' fees, if any, shall be paid from the proceeds of the investigation and/or litigation, as a portion of the recovery in the suit after trial or settlement, from an award by the court to be imposed upon the defendants, by agreement with the defendants, or some combination thereof. The County shall be the ultimate decision maker on all matters relating to the investigation and/or litigation, including whether to file litigation and whether and on what terms to settle such litigation. The Firm shall consult with and obtain the approval of the County concerning important issues regarding the investigation, litigation, and any settlement, including but not limited to the complaint and dispositive motions, selection of consultants, experts, and other professional services, discovery, pre-trial proceedings, trial, and settlement offers, demands, or negotiations. All draft filings shall be provided to the County sufficiently in advance of filing to permit the County's review and comment. Regular status meetings shall be held as requested by the County. The County also shall designate a point of contact from within the County to be available to the Firm and any defendants, as appropriate.
3. Costs, expenses, and attorneys' fees:
 - a. The Firm shall only be entitled to recover such costs, expenses, and attorneys' fees as are incurred in the investigation and/or litigation from any monetary recovery after judgment or settlement, from an award by the court to be imposed upon the defendants, by agreement with the defendants, or some combination thereof. In the event there is a judgment or settlement without a monetary payment to the County, the County will not owe anything for costs, expenses, or attorneys' fees, but the Firm may seek costs, expenses, and attorneys' fees from the court or from defendants but not from the County. Costs and expenses shall include, but not be limited to, pre-litigation investigation, discovery, pre-trial proceedings, experts, investigators, consultants and other contractors, travel, copying, freight and postage, communications charges, and any other necessary expenses related to the investigation or litigation. Costs and expenses will be deducted from any monetary recovery remaining after subtracting the contingency fee. All costs and expenses related to the investigation and litigation shall be advanced by the Firm and will be recovered by the Firm from any monetary recovery as provided in this Contract. Costs and expenses of more than \$25,000 must be approved in advance by the County.
 - b. The County agrees to pay, as compensation for attorneys' services, twenty-five percent (25%) of all recoveries from and against all sources, persons, or entities whether actually tried before a judge or jury or not. The percentage referenced in this paragraph will be calculated on and subtracted from the gross amount of any recovery obtained before any outstanding expenses

incurred by the Firm or other costs have been deducted. The County agrees that the Firm may bring in additional lawyers or law firms to assist in handling this matter, though the County must approve the selection of additional counsel. The Firm will be responsible for arranging the division of costs, expenses, and attorneys' fees, if any, with such additional counsel, and the County will not have any role or liability regarding the division of such costs, expenses, and attorneys' fees.

c. The value of any injunctive relief, both presently and in the future, shall be included in the value of the recovery for which a contingency fee is paid. However, nothing in this provision will require the County to pay the contingency fee except from a monetary recovery or payment by defendants. In other words, while the value of injunctive relief will be considered part of the total recovery, the contingency fee will still only be paid pursuant to the terms outlined above. The County and the Firm shall use their best efforts to agree on the value of injunctive relief obtained. In the absence of an agreement between the parties as to the value of injunctive relief, the value of such relief shall be determined by consideration of economic models used in the suit, the cost of remediation imposed on the defendants by the court or the jury, or by other methods agreed upon by the parties. Should the parties fail to agree on the value of the injunctive relief obtained, the value shall be determined by a three member arbitration panel whose decision shall be final and non-appealable. Each party shall choose one member of the panel and the two members shall choose the third who shall be the chairperson. The arbitration shall be conducted under the rules of the American Arbitration Association.

d. In the event the investigation or litigation results in an award of monetary recovery, declaratory relief, or injunctive relief or any combination of these awards through judgment or settlement, the total amount of the costs, expenses, and attorneys' fees to be paid to the Firm shall not exceed fifty percent (50%) of the amount of the monetary recovery (the fee cap), except under circumstances set forth in subparagraph (g) below. In the event that the litigation does not result in an award of monetary recovery, costs, expenses, and attorneys' fees shall only be recoverable through a court award or settlement to be paid by the defendants.

e. Should the court award the County as prevailing party costs, expenses, and attorneys' fees to be paid by the defendants, the County shall support an award of reasonable attorneys' fees in an amount not less than the contingency fee amount required by this Contract. Any costs, expenses, or attorneys' fees due under this Contract shall first be satisfied from funds awarded by the court from the defendants. Such an award of costs, expenses, and attorneys' fees shall not be considered as part of monetary recovery and shall not be subject to the contingency fee.

f. Nothing in this Contract shall limit, and the County shall be entitled to seek, from the court and/or the defendants its own costs, expenses, and attorneys' fees in pursuing this investigation or litigation.

g. If the Firm is terminated by the County or otherwise withdraws from the investigation or litigation, it shall be entitled to a share of any recovery (including injunctive relief) on a *quantum meruit* basis, as agreed to by the parties or determined by an arbitration panel, selected and operating as laid out above.

h. The Firm shall use best efforts to maximize the ultimate net recovery for the County, including using best efforts to recover costs, expenses, and attorneys' fees in the first instance from defendants, either through settlement or by petitioning the court. In the event that costs, expenses,

and attorneys' fees are paid directly to the Firm, the County will receive an equal credit against the costs, expenses, and contingency fee due the lawyers under this Contract. If the court awards costs, expenses, and attorneys' fees, the County shall be entitled to that portion of the award that is based on services provided by the County.

4. The County shall handle public statements.

5. Confidentiality: The Firm agrees to keep all information gained in the course of representation confidential to the full extent allowed by law, including, but not limited to, information pertaining to the investigation or litigation, the County, and its officers, employees, and agents. The Firm will not use such information to the detriment of the County nor its officers, employees, and agents at any time. It is understood and agreed that any agreement between the Firm and others providing professional services to the lawyers relating to the suit shall contain a confidentiality clause that conforms to the requirements of this paragraph.

6. Data: The Firm and its officers, agents, owners, partners, employees, volunteers, and subcontractors shall, to the extent applicable, abide by the provisions of the Minnesota Government Data Practices Act (the "MGDPA"), Minn. Stat. ch. 13, and all other applicable state and federal laws, rules, regulations, and orders relating to data or the privacy, confidentiality, or security of data, which may include the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations. For clarification and not limitation, the County hereby notifies the Firm that the requirements of Minn. Stat. § 13.05, subd. 11, apply to this Contract. The Firm shall promptly notify the County if the Firm becomes aware of any potential claims, or facts giving rise to such claims, under the MGDPA or other data security, privacy, or confidentiality laws, and shall also comply with the other requirements of this section.

The County shall make its best efforts to provide the Firm with data that has been de-identified or anonymized pursuant to HIPAA and its implementing regulations, as well as other applicable law. The parties understand and acknowledge that as the matter proceeds through litigation, the County and the Firm may elect or be obligated by the applicable court rules and/or court orders to provide data that has not been de-identified or anonymized. Upon said demand for data that is not de-identified or anonymized, the Firm shall (1) notify the County of all details regarding the demand, (2) explain to the demanding party that the request has been directed to the County and communicate appropriate contact information for the County, (3) follow the County's lawful direction regarding the response to said demand, and (4) perform any other reasonable tasks necessary to expedite fulfillment of the demand.

7. Audit Clause: To the extent Minn. Stat. § 16C.05, subd. 5, applies to this Contract, the books, records, documents, and accounting procedures and practices of the Firm that are relevant to this Contract or the transaction(s) contemplated by this Contract are subject to examination by the County and either the legislative auditor or the state auditor, as appropriate, for a minimum of six years. The Firm shall maintain such material for at least six years from the date on which services or payment were last provided or made and for a longer period if any audit in progress requires further retention.

8. Indemnification: The Firm shall defend, indemnify, and hold harmless the County and all of its past, present, and future officials, officers, agents, volunteers, and employees from any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable

attorney's fees, resulting solely from any act or omission of the Firm, a subcontractor, including but not limited to Briol & Benson, PLLC, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable in the performance of the services contemplated by this Contract, and against all loss by sole reason of the failure of the Firm to perform any obligation under this Contract. For clarification and not limitation, this obligation to defend, indemnify, and hold harmless includes but is not limited to any liability, claims, or actions resulting directly or indirectly from alleged infringement of any copyright or any property right of another, the employment or alleged employment of Firm personnel, the unlawful disclosure and/or use of protected data, or other noncompliance with the requirements of the provisions set forth herein. If a claim subject to the Firm's obligation to defend, indemnify, and hold harmless is not covered by the Firm's policies of insurance, the Firm's liability obligation shall be limited to one million dollars (\$1,000,000.00).

9. Malpractice Insurance: The Firm maintains reasonable malpractice insurance and agrees to maintain such insurance during the term of this Contract, which shall begin upon execution of this Contract by all parties and end upon completion of the litigation or termination of this Contract.

10. Choice of Law and Forum Selection: This Contract shall be governed by and construed in accordance with the laws of the State of Minnesota, without giving effect to the principles of conflict of laws. Any action arising from or relating to this Contract shall be venued in the State of Minnesota District Court for the Sixth Judicial District in Duluth, Minnesota, or the United States District Court for the District of Minnesota.


11. Modification: This Contract may be modified at any time, in whole or in part, by consent of the County and the Firm. Such modification shall be in writing and signed by all parties to this Contract.

12. Severability: If any provision of this Contract shall, to any extent, be held invalid, illegal or unenforceable, in whole or in part, the validity, legality and enforceability of the remaining part of such provision, and the validity, legality and enforceability of the other provisions hereof, shall not be affected thereby, and each term, covenant or condition shall be valid and enforceable to the fullest extent permitted by law.

13. Final Agreement: This Contract is the final expression of the agreement of the parties and the complete and exclusive statement of the agreed-upon terms and conditions. It shall supersede all prior negotiations, understandings, or agreements between the parties. There are no oral or written representations, warranties, or stipulations not contained in this Contract.

ST. LOUIS COUNTY

BY:


Mark S. Rubin
St. Louis County Attorney

Date

1-19-18

MOTLEY RICE LLC

BY:


Linda Singer
Attorney at Law/Member

Date

1/18/18

DAMION No. 2017-011779